

PT 95-42  
Tax Type: PROPERTY TAX  
Issue: Charitable Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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AMBULANCE RESCUE 33, LTD.      )   Docket No.(s)  93-72-144
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                                )   PI No.   05-20-403-006
                                )   (Peoria County)
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THE DEPARTMENT OF REVENUE      )   George H. Nafziger
OF THE STATE OF ILLINOIS      )   Administrative Law Judge
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RECOMMENDATION FOR DISPOSITION

APPEARANCES: Attorney Christopher F. Cassidy, appeared on behalf of Ambulance Rescue 33, Ltd.

SYNOPSIS: The hearing in this matter was held at 101 West Jefferson Street, Springfield, Illinois, on April 3, 1995, to determine whether or not Peoria County parcel No. 05-20-403-006 should be exempt from real estate tax for the 1993 assessment year.

Is Ambulance Rescue 33, Ltd., (hereinafter referred to as the "Applicant"), a charitable organization? Did the Applicant own the parcel here in issue during the 1993 assessment year? Was the Applicant in the process of adapting the parcel here in issue for charitable use during the 1993 assessment year? Following the submission of all the evidence and a review of the record, it is determined that the Applicant, a charitable organization, owned the parcel here in issue during all of the 1993 assessment year, and was in the process of adapting said parcel for exempt use during that year.

FINDINGS OF FACT: The position of the Illinois Department of Revenue (hereinafter referred to as the "Department"), in this matter, namely the

parcel here in issue did not qualify for exemption during the 1993 assessment year, was established by the admission in evidence of Department's Exhibits numbered 1 through 6B.

Mr. David Wiley, vice-president of the Applicant, was present, and testified on behalf of the Applicant in this proceeding.

The Applicant acquired the parcel here in issue by a warranty deed dated December 14, 1992. The Applicant was incorporated, pursuant to the "General Not For Profit Corporation Act of Illinois, on August 26, 1991, for the following purposes:

"The corporation is organized exclusively for charitable, educational religious or scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code."

The Applicant was organized back in 1968, for the purpose of providing ambulance service to the Chillicothe area.

During 1993, the Applicant provided emergency medical attention and transportation to the Peoria hospitals for persons in Chillicothe, Chillicothe Township, and Medallion Township. The Applicant's service area included approximately 100 square miles. The Applicant also provided ambulance service at local athletic events, as well as standby ambulance service to the members of its ambulance mutual aid group.

During 1993, the Applicant was operated entirely by volunteers, and there were no paid employees. Applicant had no capital, capital stock, or shareholders. During 1993, the Applicant's income consisted of charitable contributions and the proceeds of its annual donut sale fund-raiser. The Applicant does not charge, or send out bills, to anyone who is the recipient of its ambulance service. The Applicant's ambulances had always been housed in the Chillicothe Fire Department firehouse. During 1989, one Olive Jane Leighton died, and left a bequest of approximately \$280,000.00 to the Applicant. Applicant then proceeded to purchase the parcel here in issue, on which it is constructing a building to house its officers, and

for storage of its ambulances and other equipment.

After acquiring this parcel on December 14, 1992, the officers of the Applicant during January through March 1993, held several meetings with Mr. Rick Hinck of Rick Hinck Builders, to discuss various prices and design options for a building. During March 1993, Mr. Wiley, vice president of the Applicant traveled around Illinois to inspect approximately 15 different prefabricated buildings, which were under construction. During April 1993, Mr. Dennis Gould surveyed and laid out this parcel in preparation for construction. During June or July 1993, Miller and Hedden Tree Service removed trees from the portion of this parcel, where the building was to be constructed. On July 8, 1993, the Applicant entered into a contract with Landes-Benson-Parkins, P.C., Architects and Engineers. to design the building for this parcel. During July 1993, Gerald Kimble Trucking, Landscaping, and Excavating, did a rough landscaping of this parcel. Between July 8, 1993, and October 5, 1993, several meetings were held, which included representatives of the Applicant, Rick Hinck Builders, Carl's Season Control and the architect. On October 5, 1993, it was determined to terminate the contract with the architect. During November 1993, the Applicant and Rick Hinck decided to wait until spring of 1994, to begin construction. Meetings between the Applicant, Rick Hinck, and various subcontractors, continued during November and December 1993.

On February 24, 1994, the contract between the Applicant and Rick Hinck Builders was signed, and construction began during March or April 1994. As of the date of the hearing, the building was nearing completion, and the Applicant is preparing to move in, even though the building is not totally complete.

1. Based on the foregoing, I find that the Applicant owned the parcel here in issue during all of the 1993 assessment year.

2. I also find that the Applicant was operated entirely by volunteers

during 1993, and had no stock, capital stock, or shareholders.

3. The Applicant's income during 1993, I find, consisted of charitable contributions, and the proceeds of its annual fund-raiser.

4. The Applicant, I find, provides its services free of charge to all who are in need of, or request, its services.

5. Finally, I find that Applicant was in the process of adapting this parcel for exempt use, during the 1993 assessment year.

CONCLUSIONS OF LAW: Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 205/19.7 (1992 State Bar Edition), exempts certain property from taxation in part as follows:

"All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States,...when such property is actually and exclusively used for such charitable or beneficent purposes, and not leased or otherwise used with a view to profit;...."

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. *International College of Surgeons v. Brenza*, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. *People ex rel. Goodman v. University of Illinois Foundation*, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. *MacMurray College v. Wright*, 38 Ill.2d 272 (1967).

In the case of *Methodist Old Peoples Home v. Korzen*, 39 Ill.2d 149 (1968), the Illinois Supreme Court set forth six guidelines to be used in

determining whether or not an organization is charitable. Those six guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in the charter; (4) charity is dispensed to all who need and apply for it; (5) no obstacles are placed in the way of those seeking the benefits; and (6) the primary use of the property is for charitable purposes. In view of the fact that the Applicant provides its services free of charge to all persons in need of those services, I conclude that the Applicant met guidelines (1), (4), and (5) during 1993. In addition, based on the foregoing findings of fact, I conclude that the Applicant has also established that it met guidelines (2) and (3).

Illinois Courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. *Illinois Institute of Technology v. Skinner*, 49 Ill.2d 59 (1971); *People ex rel. Pearsall v. Catholic Bishop of Chicago*, 311 Ill. 11 (1924); *In re Application of County Collector*, 48 Ill.App.3d 572 (1st Dist. 1977); and *Weslin Properties, Inc. v. Department of Revenue*, 157 Ill.App.3d 580 (2nd Dist. 1987). In view of the foregoing, I find that the Applicant was in the process of adapting the parcel here in issue for exempt use during the entire 1993 assessment year.

I therefore recommend that Peoria County parcel No. 05-20-403-006 be exempt from real estate taxes for the 1993 assessment.

Respectfully Submitted,

George H. Nafziger  
Administrative Law Judge